

INFORMAL BRIEFING

Use of Informal Briefing Schedule

Under Local Rule 34(b), the court uses an informal briefing schedule in cases involving pro se litigants to permit the court to consider the merits without requiring the pro se litigant to comply with formal briefing requirements. The court also uses an informal preliminary briefing schedule prior to the grant of a full or partial certificate of appealability in counseled, non-capital appeals from the denial of relief under 28 U.S.C. § 2254 or 2255.

Informal Brief Content and Format

The clerk provides an informal brief form that asks appellant to identify the issues and facts supporting the appeal. Use of the form is not mandatory, and the parties may file a memorandum addressing the issues on appeal. The informal brief and any supporting memorandum may not exceed the length limitations established by Fed. R. App. P. 32(a)(7). It is not necessary to cite cases in an informal brief.

No Appendix

No appendix or record excerpts are required. Instead, the court reviews the record from the district court.

Informal Briefing Deadlines

- The informal opening brief is due 21 days after service of the informal briefing order (3 days are added for service of the informal briefing order). In section 2254 and 2255 cases in which no certificate of appealability has been granted, only the informal opening brief is filed. No additional briefing is ordered unless a certificate of appealability is granted.
- The informal response brief is due 14 days after service of the informal opening brief (3 days are added for service of the informal opening brief).
- The informal reply brief is due 10 days after service of the informal response brief (3 days are added for service of the informal response brief).

Informal Preliminary Briefing Deadlines

In appeals under 28 U.S.C. § 2254 or 2255 in which no certificate of appealability has been granted, the informal opening brief is due 21 days after service of the informal preliminary briefing order (3 days are added for service of the informal briefing order). No additional briefing is ordered unless a certificate of appealability is granted. If a certificate of appealability is granted, briefing proceeds as usual.

Failure to File Brief

- If appellant fails to timely file an informal opening brief, the clerk's office will issue notice under Local Rule 45 that the appeal will be dismissed unless appellant remedies the default within 15 days.
- The filing of informal response and reply briefs is optional.

Appointment of Counsel for Formal Briefing and Oral Argument

The court initially reviews cases that are informally briefed under its procedures set forth in Local Rule 34(a) pertaining to pre-argument review. If the panel reviewing an informal brief submitted by an indigent pro se litigant determines that further briefing and possible oral argument would be of assistance, counsel will be appointed and directed to file additional formal briefs. Loc. R. 34(b).

Related Links

- [Pro Se Parties](#)
- [Rule 34, Oral Argument \(with Local Rules\)](#)
- [Rule 46, Attorneys \(with Local Rules\)](#)
- [Court Forms & Fees – Informal Briefs](#)